

Congress of the United States
Washington, DC 20515

December 10, 2018

The Honorable Eric S. Dreiband
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main
Washington, D.C. 20530

Dear Assistant Attorney General Dreiband,

We write today regarding the New York State Justice Center for the Protection of People with Special Needs' (the Center's) inability to ensure the protection of individuals with special needs. Many allegations relating to staff abuses, patient neglect, sexual assaults and even patient deaths have been reported, yet the Center consistently fails to act in an appropriate manner and continues to operate without any necessary additional oversight or scrutiny.

Since its inception in 2013, the Center has failed to take meaningful steps to address systematic failures, and as such, we request the Department of Justice investigate due process violations and other criminal offenses that the Center has not addressed. While the Center claims to have the legal authority to prosecute criminal cases against disabled persons, the Center brings criminal charges against less than 2.5% of total cases of substantiated abuse or neglect of disabled persons and has declined to investigate nearly 1,400 deaths of developmentally disabled individuals residing in state care.

Further, it is our understanding that the Center has frequently neglected to report instances of ongoing abuse to law enforcement. Records obtained and published by the New York Times indicate that only 5% of the 13,000 cases of abuse recorded in state-operated facilities for the disabled were referred to law enforcement. In April 2018, a 34 year old male was found dead in his room a day after complaining of having trouble breathing, however no official investigation has been conducted to date past an insufficient internal review conducted by the care facility. Instead of referring the overwhelming majority of cases to law enforcement officials, the Center allowed facilities to conduct internal reviews, which often times included disciplinary actions unbefitting of the allegations. In fact, through information obtained by Freedom of Information Law requests filed, the New York Department of Health (NYDOH) revealed that it never received a case from the Justice Center between June 30, 2013, and April 1, 2016. This failure to report to NYDOH appears to violate the provision within the Center's founding charter which mandates that it forward substantiated reports of abuse and neglect to the Medicaid Inspector General. This practice is troublesome as the Center's encouragement of internal reviews such as this discourages transparency and public reporting of inappropriate and potentially criminal acts.

Additionally, the Albany Times Union reported at least 25 registered sex offenders residing in state-run facilities for the developmentally disabled in Suffolk, Washington and Franklin Counties, and these are just 3 counties of New York State. One former New York special prosecutor and inspector general, Patricia Gunning, investigated strangulation assault at State facilities. Ms. Gunning's investigation, as reported by Newsday, was rejected and denied by state officials concerned about "the optics" of this subject. When Ms. Gunning brought this complaint up the chain to the state's employment assistance program, she was warned it would destroy her career. Soon after, Ms. Gunning was told that the Governor's office wanted to take the Justice Center in a "new direction," and was subsequently fired. This clear lack of appropriate oversight must be fully investigated for the appropriate parties to be held accountable and to ensure that these practices cease immediately.

New York spends over \$75 billion per year on its Medicaid program, second only to California, but fails to properly take care of its most vulnerable population by an independent statewide level law enforcement agency designed to protect disabled individuals. This is a blatant misuse of taxpayer dollars and an investigation is critical.

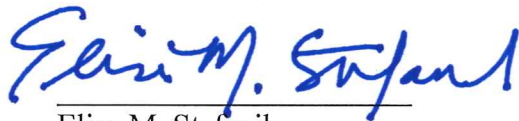
Individuals with disabilities deserve full and equal protection under the law, however, disabled individuals in New York State have been unable to avail themselves of the criminal justice system due to the lack of action taken by the Center. Therefore, I request the Department of Justice investigate the lack of prosecutions, referrals and due process violations that have been alleged.

Thank you in advance for your time and attention to this matter.

Sincerely,



Lee Zeldin
Member of Congress



Elise M. Stefanik
Member of Congress



Peter T. King
Member of Congress



Tom Reed
Member of Congress